

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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In the Matter of

Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service

Implementation of Sections 3(n) and 332 of the Communications Act

Regulatory Treatment of Mobile Services

PR Docket No. 89-552

POCKET FILE COPY ORIGINAL

GN Docket No. 93-252

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**REPLY COMMENTS OF
SMR ADVISORY GROUP, L.C.**

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September 27, 1995

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¹ Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 Mhz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552, GN Docket 93-252, released August 29, 1995 ("Fourth Notice").

authorizations only if such modifications would not increase their originally licensed 38 dBu contours.

The Commission's files indicate that eleven (11) parties filed comments in this proceeding. Among these parties, there was near unanimous agreement that the Commission's proposal was wholly inadequate with respect to the critical modification issue. While a number of counterproposals were made, the alternative generating the most support was put forth by the American Mobile Telecommunications Association, Inc. ("AMTA"), which proposed to permit Phase I licensees to relocate to any site that:

- (i) is no more than 35 kilometers from the original site, and
- (ii) is no more than one-half the distance in excess of 120 kilometers from any co-channel 220-222 MHz licensee, unless the relocating licensee obtains the concurrence of the co-channel licensee and files such concurrence with its modification.²

As reflected in its opening comments, SMR Advisory urges the Commission to adopt the AMTA proposal as the alternative best serving the public interest and the needs of the 220 MHz industry.

I.

DISCUSSION

A. The Commission Proposal Will Not Serve the Public Interest

Nearly all commenters in this proceeding agree that the Commission's modification proposal is contrary to the public interest in that it would result in a significant

² Comments of American Mobile Telecommunications Association, Inc., filed September 13, 1995, at 10-14 ("AMTA Comments").

deterioration of service provided by existing licensees. Moreover, many commenters asserted that limiting modifications to those which do not in any way change the contours of the existing facility is too restrictive to meet the needs of existing 220-222 MHz licensees.³ As stated by one commenter, AMTA studies show that more than one half of the operating 220-222 MHz systems currently are operating pursuant to special temporary authority at sites other than their original sites, and will require permanent authority to relocate to these alternative sites.⁴ In order to maintain a 38 dBu service contour based on the initial site, these licensees would be required to reduce power or discontinue operations at these alternative sites.⁵ Reducing power would result in both a dramatically smaller service area and gaps within the area to be covered, lowering the quality of service.

To the extent that a majority of the existing Phase I licensees are forced either to reduce power or to discontinue service, there clearly will be a significant reduction in overall 220 MHz service provided by Phase I licensees. Subscribers will be deprived of service they are currently receiving or will face substantial delays in receiving any service at all. The Commission's proposal to permit Phase I licensees to use fill-in stations does not alleviate this problem. Fill-in stations are too costly given the low-cost nature of 220-222

³ See, e.g., AMTA Comments at 9.

⁴ Comments of Roamer One, Inc., filed September 13, 1995, at 3 ("Roamer Comments"). Approximately, one-half of the eighty-five systems managed by SMR Advisory will need to relocate to alternative sites because of the unavailability or unsuitability of the original site.

⁵ Roamer Comments at 3-4.

MHz service.⁶ Moreover, in many instances, sites for fill-in stations simply are not available.⁷ A proposal that would force the quality of service to deteriorate is clearly not in the public interest.

B. The Commission Should Adopt the AMTA Proposal

As reflected in its initial comments, SMR Advisory strongly supports the AMTA proposal. Other comments filed also revealed broad support for the AMTA's distance separation approach for modifications.⁸ Under AMTA's proposal, there will be no mutually exclusive applications and Phase I licensees will continue to serve the general areas initially proposed.⁹ At the same time, AMTA's proposal will give existing licensees the flexibility to configure their service areas to provide high quality service on a commercially

⁶ AMTA Comments at 9; Comments of SMR Advisory Group, L.C., filed on September 13, 1995, at 7 ("SMR Advisory Comments"); See Comments of SEA, Inc., filed on September 13, 1995, at 5 ("SEA Comments").

⁷ As SMR Advisory indicated in its Comments on this issue, to the extent that sites for fill-in stations are available, they would in all likelihood be used for the relocated primary site in any event. SMR Comments at 7.

⁸ AMTA Comments at 10-14; SMR Advisory Comments at 7-10; Roamer Comments at 6; SEA Comments at 4; Comments of E.F. Johnson Company, filed September 13, 1995, at 5 ("EFJC Comments"); Comments of Police Emergency Radio Services, Inc., filed September 13, 1995, at 2 ("PERSI Comments"). At least one component of the Comments of Incom Communications Corporation proposed a distance separation rule similar to the AMTA proposal. See Comments of Incom Communications Corporation, filed September 13, 1995, at 7-8 ("Incom Comments").

⁹ A few commenters proposed other alternatives to the Commission proposal. See Comments of the Personal Communications Industry Association, filed September 13, 1995, at 4 ("PCIA Comments")(use of 28 dBu contour); Comments of the Richard L. Vega Group, filed September 13, 1995, at 1 ("Vega Comments")(50-mile service area). While these alternatives may have merit over the Commission's proposal, AMTA's proposal best addresses the needs of the public, the 220-222 MHz licensees and the Commission on this issue.

reasonable basis.¹⁰ Modification applications will be processed easily and efficiently, without delaying the Phase II licensing process.¹¹

Given that the AMTA proposal (i) best ensures quality service to the public, (ii) presents the more workable solution for the industry and (iii) will result in the expeditious and efficient processing of modification applications by the Commission, SMR Advisory urges the Commission to reject its service contour approach and to adopt the AMTA alternative for the filing of modifications by Phase I Licensees.

C. SMR Advisory Supports Certain of the Clarifications Sought by Other Commenters

In addition to addressing the central modification proposal put forth by the Commission, many commenters raised a number of collateral issues requiring clarification. SMR Advisory generally supports these requested clarifications as discussed below.

Several commenters, for example, urged the Commission to expressly permit the use of directional antennas by 220 MHz licensees.¹² SMR Advisory agrees with these commenters; the use of directional antennas will permit 220 MHz licensees to shape their ERP pattern to match their service area contours while preserving service area coverage.¹³

¹⁰ AMTA Comments at 10; SMR Advisory Comments at 8; SEA Comments at 3.

¹¹ See SEA Comments at 4.

¹² Roamer Comments at 9; SEA Comments at 5; EFJC Comments at 7; Comments of ComTech Communications, filed September 13, 1995, at 4 ("ComTech Comments").

¹³ See SEA Comments at 5.

Other commenters requested clarification on several issues in the event that the Commission rejects the AMTA proposal and adopts instead its own proposal to limit modifications to those that will not increase the originally licensed 38 dBu contour. Some commenters asked for clarification on the operating parameters used to calculate service area contours.¹⁴ SMR Advisory agrees that if the Commission does decide to adopt service contours, it should base these contours on maximum operating parameters.¹⁵ Other commenters urged that there should be no time limits on protecting the Phase I licensees authorized contour¹⁶ and sought clarification on the technical showings required for changes in location or operating parameters necessitated by unusual terrain.¹⁷ SMR Advisory concurs that there is a need for clarification on these matters and supports the requests for clarification as described herein.

¹⁴ AMTA Comments at 14.

¹⁵ See AMTA Comments at 14; EFJC Comments at 6-7; and Roamer Comments at 9.

¹⁶ See EFJC Comments at 7-8.

¹⁷ AMTA Comments at 14-15.

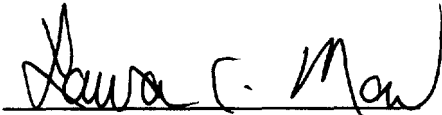
II.

CONCLUSION

For the reasons stated above, the Commission should adopt the AMTA proposal to permit licensees to move to a new site as long as it is no more than 35 kilometers from the original site and is no more than one-half the distance in excess of 120 kilometers from any co-channel licensee, unless the licensee obtains the concurrence of the co-channel licensee. The Commission also should clarify certain collateral matters discussed herein.

Respectfully submitted,

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